

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

THEORDORIA LEGGETT

433 E. Rittenhouse St.

Philadelphia, PA 19144

Plaintiff,

v.

HCSG EAST, LLC

3220 Tillman Dr., Suite 300

Bensalem, PA 19020

and

HEALTHCARE SERVICES GROUP, INC.:

d/b/a QUALITY SOLUTIONS, INC./

HCSG EAST, LLC.

3220 Tillman Dr., Suite 300

Bensalem, PA 19020

and

IVY HILL NURSING & REHAB, INC.

1401 Ivy Hill Road

Philadelphia, PA 19150

Defendants.

CIVIL ACTION

No. _____

JURY TRIAL DEMANDED

CIVIL ACTION COMPLAINT

Plaintiff, by and through her undersigned counsel, hereby avers as follows:

INTRODUCTION

1. This action has been initiated by Theordoria Leggett (*hereinafter* referred to as "Plaintiff," unless indicated otherwise) against HCSG East, LLC, Healthcare Services Group, Inc. and Ivy Hill Nursing & Rehab, Inc. (*hereinafter* collectively referred to as "Defendants" unless indicated otherwise) for violations of the Americans with Disabilities Act ("ADA" -42 USC §§ 12101 *et. seq.*), the Family and Medical Leave Act ("FMLA" - 29 U.S.C. §§ 2601 *et*

seq.), and the Pennsylvania Human Relations Act (“PHRA”).¹ As a direct consequence of Defendants’ unlawful actions, Plaintiff seeks damages as set forth herein.

JURISDICTION AND VENUE

2. This Court, in accordance with 28 U.S.C. § 1331, has jurisdiction over Plaintiff’s claims because this civil action arises under laws of the United States.

3. This Court may properly maintain personal jurisdiction over Defendants because Defendants’ contacts with this state and this judicial district are sufficient for the exercise of jurisdiction over Defendants to comply with traditional notions of fair play and substantial justice, satisfying the standard set forth by the United States Supreme Court in International Shoe Co. v. Washington, 326 U.S. 310 (1945) and its progeny.

4. Pursuant to 28 U.S.C. § 1391(b)(1) and (b)(2), venue is properly laid in this district because all of the acts and/or omissions giving rise to the claims set forth herein occurred in this judicial district, and in addition, Defendants are deemed to reside where they are subject to personal jurisdiction, rendering Defendants residents of the Eastern District of Pennsylvania.

5. Plaintiff is proceeding herein under ADA and has properly exhausted her administrative remedies with respect to such claims by timely filing a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) and by filing the instant lawsuit within ninety (90) days of receiving a notice of dismissal and/or right to sue letter from the EEOC.

¹ Plaintiff will move to amend his instant lawsuit to include a claim under the PHRA once her administrative remedies are fully exhausted with the Pennsylvania Human Relations Commission. Any claims under the PHRA though would mirror the instant ADA claims identically.

PARTIES

6. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

7. Plaintiff is an adult individual, with an address as set forth in the caption.

8. Defendant HCSG East, LLC (“Defendant HCSG East”) is a subsidiary of Defendant Healthcare Services Group, Inc. (“Defendant HSG”). Both entities operate as companies that provide housekeeping/laundry and dining/nutrition services to the healthcare facilities, including but not limited to the facility at which Plaintiff physically worked, Ivy Hill Nursing and Rehab, Inc. Defendant HCSG East and Defendant HSG are *hereinafter* collectively referred to as “Defendant HCSG.”

9. Defendant Ivy Hill Nursing and Rehab, Inc. (“Defendant Ivy”) is a healthcare facility located at the above captioned address.

10. Plaintiff was employed through Ivy Hill Nursing and Rehab Inc.; however, Defendant HCSG acquired a large majority of Defendant Ivy’s employees before the acts of discrimination described herein. When Defendant HCSG acquired Plaintiff as an employee, it kept her employed at Defendant Ivy and she was thereafter paid by Defendant HCSG as a direct employee of Defendant HCSG.

11. However, in every other respect Plaintiff was treated as an employee of all Defendants, taking directions from all Defendants and following all of their policies. As a result, Defendants are properly a joint, single and/or integrated employer.

12. At all times relevant herein, Defendants acted by and through their agents, servants and employees, each of whom acted at all times relevant herein in the course and scope of their employment with and for Defendants.

FACTUAL BACKGROUND

13. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

14. Plaintiff was hired by Defendant Ivy on or about October 20, 2011.

15. A few years into Plaintiff's employment with Defendant Ivy, Defendant HCSG acquired a large majority of Defendant Ivy's employees.

16. When Defendant HCSG acquired Plaintiff as an employee, it kept her employed at Defendant Ivy and she was thereafter paid by Defendant HCSG as a direct employee of Defendant HCSG.

17. Even though Plaintiff was paid by Defendant HCSG and was considered a direct employee of Defendant HCSG, Plaintiff was, in every other respect, treated as an employee of all Defendants, taking directions from all Defendants and following all of their policies. As a result, Defendants jointly employed Plaintiff.

18. In or about late January of 2017, Plaintiff began to suffer from qualifying health conditions under the ADA, including but not limited to Depression.

19. Plaintiff's aforesaid health conditions, at times, limited her ability to perform some daily life activities, including but not limited to sleeping, working, and engaging in social interaction.

20. Despite Plaintiff's aforesaid health conditions and limitations, she was still able to perform the duties of her job well with Defendants; however, she did require reasonable accommodations for her medical conditions, including but not limited to time off from work to care for and treat for her disabilities.

21. In or about late January of 2017, Plaintiff requested and took an FMLA-qualifying leave of absence for her aforesaid mental health conditions.

22. Prior to taking FMLA-qualifying leave in January of 2017, Plaintiff was permanently assigned to only one floor (2 East).

23. Plaintiff attempted to return from her medical leave of absence (discussed *supra*) in or about late February of 2017; however, Defendants' management, including but not limited to Eugene (last name unknown – Supervisor), refused to allow her to return to work despite providing medical documentation clearing her to return without restrictions.

24. For the next approximate 4-5 weeks, Defendants refused to (1) schedule Plaintiff for any shifts/hours; (2) assign her to her prior permanent floor; or (3) give her any indication when she would begin receiving hours. Instead, Defendants indicated that Plaintiff may be contacted as a "floater"² in the near future.

25. Plaintiff thereafter returned to work as a floater but continued to work on a reduced schedule for an extended period of time (thereby reducing her hours and pay) and has yet to be assigned to a permanent floor.

26. Therefore, it is believed and averred that Defendants removed Plaintiff from the workplace without pay for several weeks, reduced her hours, and have failed to properly schedule her to her pre-medical leave role because of her actual/perceived/record of disabilities and/or in retaliation for requesting/taking an FMLA-qualifying leave of absence (a reasonable accommodation under the ADA).

² A floater position is not assigned to a specific floor and is not guaranteed a set amount of hours (as Plaintiff's position prior to taking medical leave).

First Cause of Action
Violations of the Americans with Disabilities Act, as amended ("ADA")
(Actual/Perceived/Record of Disability Discrimination & Retaliation)
-Against All Defendants-

27. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

28. Plaintiff suffered from qualifying health conditions under the ADA (as amended), which (at times) affected her ability to perform some daily life activities (as discussed *supra*).

29. Plaintiff requested reasonable accommodations from Defendants' management, in the form of time off from work.

30. It is believed and therefore averred that Defendants removed Plaintiff from the workplace without pay for several weeks, reduced her hours, and have failed to properly schedule her to her pre-medical leave role because of: (1) her known and/or perceived disabilities; (2) her record of impairment; and/or (3) because she requested accommodations, which constitutes unlawful retaliation.

31. It is also believed and therefore averred that Defendants failed to accommodate Plaintiff by refusing to hold her pre-medical leave role open while she was out on medical leave.

32. These actions as aforesaid constitute violations of the ADA, as amended.

Second Cause of Action
Violations of the Family and Medical Leave Act ("FMLA")
(Retaliation & Interference)
-Against All Defendants-

33. The foregoing paragraphs are incorporated herein in their entirety as if set forth in full.

34. Plaintiff was an eligible employee under the definitional terms of the FMLA, 29 U.S.C. § 2611(a)(i)(ii).

35. Plaintiff requested leave from Defendants, her employers, with whom she had been employed for at least twelve months pursuant to the requirements of 29 U.S.C.A § 2611(2)(i).

36. Plaintiff had at least 1,250 hours of service with Defendants during her last full year of employment.

37. Defendants are engaged in an industry affecting commerce and employs fifty (50) or more employees for each working day during each of the twenty (20) or more calendar work weeks in the current or proceeding calendar year, pursuant to 29 U.S.C.A § 2611(4)(A)(i).

38. Plaintiff was entitled to receive leave pursuant to 29 U.S.C.A § 2612 (a)(1) for a total of twelve (12) work weeks of leave on a block or intermittent basis.

39. Defendants committed interference and retaliation violations of the FMLA by removing Plaintiff from work without pay, reducing her hours and, and failing to properly schedule her to her pre-medical leave role because she requested and/or took FMLA-qualifying leave and/or in order to prevent Plaintiff from taking FMLA-qualifying leave in the future.

40. These actions as aforesaid constitute violations of the FMLA.

WHEREFORE, Plaintiff prays that this Court enter an Order providing that:

A. Defendants are to compensate Plaintiff, reimburse Plaintiff, and make Plaintiff whole for any and all pay and benefits Plaintiff would have received had it not been for Defendants' illegal actions, including but not limited to back pay, front pay, salary, pay increases, bonuses, insurance, benefits, training, promotions, reinstatement, and seniority.

B. Plaintiff is to be awarded punitive and/or liquidated damages, as permitted by applicable law, in an amount believed by the Court or trier of fact to be appropriate to punish

Defendants for their willful, deliberate, malicious and outrageous conduct and to deter Defendants or other employers from engaging in such misconduct in the future;


C. Plaintiff is to be accorded other equitable and legal relief as the Court deems just, proper, and appropriate (including but not limited to damages for emotional distress / pain and suffering);

D. Plaintiff is to be awarded the costs and expenses of this action and reasonable attorney's fees as provided by applicable federal and state law.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

By: _____


Ari R. Karpf, Esq.
3331 Street Road
Two Greenwood Square, Suite 128
Bensalem, PA 19020
(215) 639-0801

Dated: November 27, 2017

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Theordoria Leggett

v.

HCSG East, LLC, et al.

CIVIL ACTION

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

11/27/2017

Date

Attorney-at-law

Plaintiff

Attorney for

(215) 639-0801

Telephone

(215) 639-4970

FAX Number

akarpf@karpf-law.com

E-Mail Address

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 433 E. Rittenhouse Street, Philadelphia, PA 19144

Address of Defendant: 3220 Tillman Drive, Suite 300, Bensalem, PA 19020; 1401 Ivy Hill Road, Philadelphia, PA 19150

Place of Accident, Incident or Transaction: Defendants place of business
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☐
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☐
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☐

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☒ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☐ All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Ari R. Karpf, counsel of record do hereby certify:

☒ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 11/27/2017

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with P.R.C.P. 38.

ARK2484

Attorney I.D.# 91538

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 11/27/2017

Attorney-at-Law

ARK2484

Attorney I.D.# 91538

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

LEGGETT, THEODORIA

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Karpf, Karpf & Cerutti, P.C.; 3331 Street Road, Two Greenwood Square,
Suite 128, Bensalem, PA 19020; (215) 639-0801; akarpf@karpf-law.com

DEFENDANTS

HCSG EAST, LLC, ET AL.

County of Residence of First Listed Defendant Bucks
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party) ☒
- 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III) ☐

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	1	1	Incorporated or Principal Place of Business In This State	4	4
Citizen of Another State	2	2	Incorporated and Principal Place of Business In Another State	5	5
Citizen or Subject of a Foreign Country	3	3	Foreign Nation	6	6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 450 Commerce	<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 371 Truth in Lending			<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 500 Securities/Commodities/Exchange	<input type="checkbox"/> 510 Other Statutory Actions
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 385 Property Damage Product Liability			<input type="checkbox"/> 520 Agricultural Acts	<input type="checkbox"/> 530 Environmental Matters	<input type="checkbox"/> 540 Freedom of Information Act	<input type="checkbox"/> 550 Arbitration
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 390 Other Civil Rights	<input type="checkbox"/> 401 Voting			<input type="checkbox"/> 560 Administrative Procedure Act/Review or Appeal of Agency Decision	<input type="checkbox"/> 570 Constitutionality of State Statutes	<input type="checkbox"/> 580 Arbitration	<input type="checkbox"/> 590 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 411 Employment	<input type="checkbox"/> 422 Housing/Accommodations			<input type="checkbox"/> 600 Federal Tax Suits	<input type="checkbox"/> 610 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 620 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 630 Multidistrict Litigation - Transfer
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 431 Amer. w/Disabilities - Employment	<input type="checkbox"/> 446 Amer. w/Disabilities - Other						
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 448 Education							
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury								
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice								
<input type="checkbox"/> 195 Contract Product Liability									
<input type="checkbox"/> 196 Franchise									

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Americans w/Disabilities Act "ADA"(42USC12101); Family & Medical Leave Act "FMLA" (29USC2601)
Brief description of cause:
Violations of the ADA, FMLA and the PHRA.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. ☐ DEMAND \$ ☐ CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/27/2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

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